

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA

- v. -

GIUSEPPE EMANUELE,

Defendant.

INDICTMENT

08 Cr.

**08:CRIM 518**

-----X  
COUNT ONE

(Conspiracy To Commit Access Device Fraud)

The Grand Jury charges:

Background

1. At all times relevant to this Indictment, GIUSEPPE EMANUELE, the defendant, operated a tax preparation business in the Bronx, New York.

2. At all times relevant to this Indictment, a co-conspirator not named as a defendant herein ("CC-1") was an employee of the Montefiore Hospital in the Bronx, New York, where CC-1 had access to the names, dates of birth, and Social Security numbers of hospital patients.

Statutory Allegation

3. From at least in or about 2001 through on or about June 12, 2003, in the Southern District of New York and elsewhere, GIUSEPPE EMANUELE, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine,

conspire, confederate and agree together and with each other to violate the laws of the United States, to wit, to violate Title 18, United States Code, Sections 1029(a)(2) and 1029(a)(3).

The Objects of the Conspiracy

4. It was a part and an object of the conspiracy that GIUSEPPE EMANUELE, the defendant, and others known and unknown, unlawfully, willfully, knowingly, and with intent to defraud, in an offense affecting interstate commerce, would and did traffic in and use one and more unauthorized access devices during a one-year period and by such conduct obtained a thing of value aggregating \$1,000 and more during that period, in violation of Title 18, United States Code, Section 1029(a)(2).

5. It was further a part and an object of the conspiracy that GIUSEPPE EMANUELE, the defendant, and others known and unknown, unlawfully, willfully, knowingly, and with intent to defraud, in an offense affecting interstate commerce, would and did possess fifteen and more devices which were counterfeit and unauthorized access devices, in violation of Title 18, United States Code, Section 1029(a)(3).

Means and Methods of the Conspiracy

6. Among the means and methods by which GIUSEPPE EMANUELE, the defendant, and others known and unknown, would and did carry out the conspiracy were the following:

a. CC-1 obtained names of patients, generally

infants, along with their dates of birth and Social Security numbers from computers containing patient records at Montefiore Hospital.

b. CC-1 then supplied this information to EMANUELE, who, while working as a tax preparer, used the patient information to prepare fraudulent tax returns falsely claiming that the patients were dependents of the purported taxpayers.

c. EMANUELE agreed to pay CC-1 approximately \$200 for each patient name that was successfully used fraudulently as a dependent.

Overt Acts

7. In furtherance of said conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about 2001, CC-1 provided GIUSEPPE EMANUELE, the defendant, with a list of patient names, dates of birth, and Social Security numbers obtained from CC-1's workplace, Montefiore Hospital.

b. In or about 2001, EMANUELE paid CC-1 approximately \$200 for each of the names on the list that EMANUELE used successfully to claim tax credits.

(Title 18, United States Code, Section 1029(b)(2).)

COUNT TWO

(Access Device Fraud (Possession))

The Grand Jury further charges:

8. The statements in paragraphs 1, 2, 6 and 7 are repeated and realleged as if fully stated herein.

9. On or about June 12, 2003, in the Southern District of New York and elsewhere, GIUSEPPE EMANUELE, the defendant, unlawfully, willfully, knowingly, and with intent to defraud, in an offense affecting interstate commerce, possessed fifteen and more devices which were counterfeit and unauthorized access devices, to wit, EMANUELE possessed without authorization at least several hundred Social Security numbers ("SSNs") that had been used and were being used on tax returns fraudulently to claim tax benefits.

(Title 18, United States Code, Sections 1029(a)(3) and 2.)

FORFEITURE ALLEGATION

10. As a result of committing one or more of the foregoing fraud offenses in violation of Section 1029 of Title 18, United States Code, alleged in Counts One and Two of this Indictment, GIUSEPPE EMANUELE, the defendant, shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that constitutes or is derived from any proceeds traceable to the commission of the offenses.

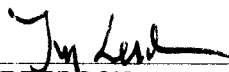
Substitute Assets Provision

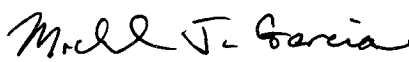
If any of the property described above as being subject to forfeiture, as result of any act or omission of the defendant,

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property.

(Title 18, United States Code, Sections 981(a)(1)(C) and 1029(c)(2), Title 21 United States Code, Section 853(p), Title 28 United States Code, Section 2461.)

  
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FOREPERSON

  
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MICHAEL J. GARCIA *MAA*  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(Title 18, United States Code,  
Sections 1029 and 2.)

MICHAEL J. GARCIA  
United States Attorney.

A TRUE BILL

  
Foreperson.

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*Indictment Filed. A/w Issued.*  
*Fox, M.J.*